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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,182	09/05/2001	Galip Akay	P6671OUS0	3068
136	7590	07/27/2004	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			NAFF, DAVID M	
			ART UNIT	PAPER NUMBER
			1651	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,182

Applicant(s)

AKAY ET AL.

Examiner

David M. Naff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/3/04 & 3/19/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 62-127 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 62-127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

An amendment of 5/3/04 amended claims 62-73, 75-97, 100 and 101 and added new claims 102-127. It is noted that claims 77, 78, 80-82, 85, 89 and 91-93 are indicated as amended, but no change is found the
5 claims by underlining or lining through.

Claims examined on the merits are 62-127, which are all claims in the application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10 ***Claim Rejections - 35 USC § 112***

Claims 62-127 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in
15 the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to describe a process as now required by claim 62 of carrying out four stages of forming different emulsions, homogenizing, co-extruding and polymerizing in combination with
20 selecting from four different mechanisms as claimed for forming pore structure and obtaining a plurality of zones. The specification and original claims describe only a process of preparing an HIPE emulsion, homogenizing and polymerizing. While original claim 18 requires co-extrusion, it is uncertain where this is described in the
25 specification. Additionally, claim 18 does not require co-extrusion

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when different emulsions are formed in the same process using four different stages and four different mechanisms for controlling pore structure and obtaining a plurality of zones as now claimed.

Additionally, the specification does not describe conditions of the dependent claims when carrying out a process as required by claim 62.

Claim Rejections - 35 USC § 112

Claims 62-127 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to provide an enabling disclosure for a process as now required by claim 62 and for dependent claims when dependent on the process of claim 62. Nowhere does the specification disclose a four stage process as claimed of forming different emulsions, homogenizing, co-extruding and polymerizing to form a plurality of zones using four different mechanisms for forming pore structure. Additionally, the specification does not describe using conditions as now required by the dependent claims when carrying out a process as now required by claim 62. Working examples have not been provided for a process as required by claim 62 and for modifying this process as required by dependent claims. Specific details have not been provided of how different emulsions are formed in the same process and then co-extruded. It is uncertain as to apparatus that is

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used to form the different emulsions and for co-extrusion of the emulsions.

Claim Rejections - 35 USC § 112

Claims 62-127 are rejected under 35 U.S.C. 112, second paragraph,
5 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are confusing and unclear by failing to set forth clear, distinct and positive process steps, and in claiming a process
10 and resulting product that are not described in the specification as claimed in a manner to be enabling. The claims are further confusing and unclear by encompassing numerous alternatives and using terms that are uncertain as to meaning and scope or are indeterminate in meaning and scope. Claim 62 requires forming different emulsions, and it is
15 unclear how this is done. Are the emulsions formed simultaneously or are they formed one after the other? The specification does not describe an apparatus for doing this in a single process. Steps used to carry out each of the four mechanisms for forming pore structure are unclear. Each of these mechanisms appears to be a separate
20 process, and claiming all four in a single process makes the claims unclear. Dependent claims are confusing and unclear how they modify the process of claim 62, and many of the dependent claims do not have antecedent basis in claim 62. Claim 63 appears to be claiming a different process from claim 62 since in claim 63 the third stage is
25 inserting fibers instead of co-extrusion as in claim 62. It is

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uncertain where in claim 62 the steps of claim 63 are carried out. Claim 66 is unclear by requiring extruding since claim 62 already requires extruding. It is uncertain as to why terms such as "Basic" and "Coalescence" are capitalized. Additionally the meaning and scope of "Basic pores" and "Coalescence pores" is uncertain. In claim 70, reciting "below or greater than 60C" and "below or in excess of 60 μm " is meaningless, and is not limiting. Reciting "optionally" in claims 73 and 105 (line 5) is confusing. Claim 99 is unclear by omitting "The" at the beginning. Claim 105 is unclear by depending on a plurality of claims. In line 2 of claims 106 and 126, "i.e." makes the claims unclear. In line 3 of claim 113, the purpose of "(directional)" is uncertain. Similarly, in line 4 of claim 87, the purpose of "(anisotropic)" is uncertain.

The claims are free of the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action

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is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5 Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 571-272-0920. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful,
10 the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR)
15 system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private
20 PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David M. Naff
Primary Examiner
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DMN

25 7/23/04